

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

JACOB M. DICK REV LIVING TRUST DTD 4/6/01, individually and as tenant in common,

ESTATE OF JACOB M. DICK, as grantor of the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

ANDREA J. MARKS, as trustee and beneficiary of the Jacob M. Dick Rev Living Trust Dtd 4/6/01, as executor and beneficiary of the Estate of Jacob M. Dick, and as trustee of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

REID DORAL ASHLEY, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

RIO JOCELYN BREEN, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

ARTICLE 8.1 TRUST,

SUZANNE BREEN, as beneficiary of the Estate of Jacob M. Dick and the Jacob M. Dick Rev Living Trust Dtd 4/6/01, and

DOUGLAS J. STURLINGH, as beneficiary of the Estate of Jacob M. Dick and the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

Defendants.

Adv. Pro. No. 10-04570 (CGM)

**DECLARATION OF NICHOLAS J. CREMONA IN SUPPORT OF
TRUSTEE'S MOTION FOR SUMMARY JUDGMENT**

I, Nicholas J. Cremona, declare the following:

1. I am a Partner with the law firm of Baker & Hostetler LLP, counsel to Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the chapter 7 estate of Bernard L. Madoff. I submit this Declaration in support of the Trustee’s Motion for Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and correct copy of the SEC Form BD for Bernard L. Madoff dated December 31, 1959 (PUBLIC0003607).

3. Attached hereto as Exhibit 2 is a true and correct copy of the Articles of Organization for Bernard L. Madoff Investment Securities LLC dated January 1, 2001.

4. Attached hereto as Exhibit 3 is a true and correct copy of SEC Amended Form BD for Bernard L. Madoff Investment Securities LLC dated January 12, 2001.

5. Attached hereto as Exhibit 4 is a true and correct copy of SEC Form ADV for Bernard L. Madoff Investment Securities LLC dated August 25, 2006 (PUBLIC0003729).

6. Attached hereto as Exhibit 5 is a true and correct copy of BLMIS’s Amended and Restated Operating Agreement dated April 14, 2004 (MADTSS01160350).

7. Attached hereto as Exhibit 6 is a true and correct copy of an exemplar of JPMorgan Chase Bank, N.A. statements for account #xxxxx1703 and account #xxxxxxxxx1509.

8. Attached hereto as Exhibit 7 are true and correct excerpts from the testimony of Frank DiPascali, Jr. during the multi-day criminal trial *United States v. Bonventre*, No. 10-CR-228 (LTS) (S.D.N.Y.), ECF Nos. 858, 862, 884.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Plea Allocution of Bernard L. Madoff, *United States v. Madoff*, No. 09-CR-213 (DC) (S.D.N.Y. Mar. 12, 2009), ECF No. 57.

10. Attached hereto as Exhibit 9 is true and correct copy of the Plea Allocution of Frank DiPascali, Jr., *United States v. DiPascali*, No. 09-CR-764 (RJS) (S.D.N.Y. Aug. 11, 2009), ECF No. 12.

11. Attached hereto as Exhibit 10 is true and correct copy of the Plea Allocution of David L. Kugel, *United States v. Kugel*, No. 10- CR-228 (LTS) (S.D.N.Y. Nov. 21, 2011), ECF No. 188.

12. Attached hereto as Exhibit 11 is a true and correct copy of the Plea Allocution of Irwin Lipkin, *United States v. Irwin Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. Nov. 8, 2012), ECF No. 288.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Plea Allocution of Eric S. Lipkin, *United States v. Eric S. Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. June 6, 2011), ECF No. 148.

14. Attached hereto as Exhibit 13 is a true and correct copy of the Plea Allocution of Enrica Cotellessa-Pitz, *United States v. Cotellessa-Pitz*, No. 10-CR-228 (LTS) (S.D.N.Y. Dec. 19, 2011), ECF No. 1512.

15. Attached hereto as Exhibit 14 is a true and correct copy of the BLMIS Customer Statement for the BLMIS Account 1CM325, dated July 31, 2004 (AMF00254449).

16. Attached hereto as Exhibit 15 is a true and correct copy of the BLMIS Customer Agreement for Account 1CM325, dated April 5, 1995 (AMF00254464–AMF00254467).

17. Attached hereto as Exhibit 16 is a true and correct copy of the Responses and Objections of Defendants Jacob M. Dick Rev Living Trust Dtd 4/6/01, Estate of Jacob M. Dick, and Andrea J. Marks to Trustee's First Set of Interrogatories, dated April 20, 2017.

18. Attached hereto as Exhibit 17 is a true and correct copy of the deposition transcript of Defendant Andrea Joy Firestone (formerly Marks), dated September 14, 2017.

19. Attached hereto as Exhibit 18 is a true and correct copy of the Tr. of Oral Arg. at 114:10–11, *Picard v. Marilyn Bernfeld Tr.*, Adv. Pro. No. 10-05143 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015) and Tr. of Oral Argument at 100:19, *Picard v. Mendelow*, Adv. Pro. No. 10-04283 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015).

20. Attached hereto as Exhibit 19 are true and correct copies of letters from BLMIS to various financial institutions.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: February 28, 2022
New York, New York

Respectfully submitted,
BAKER & HOSTETLER LLP

By: /s/ Nicholas J. Cremona
Nicholas J. Cremona